

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ADAM SAMSON RUBANENKO
5484 Katherine Avenue
Sherman Oaks, CA 91401

Registered Nurse License No. 710340

Respondent

Case No. 2011-936

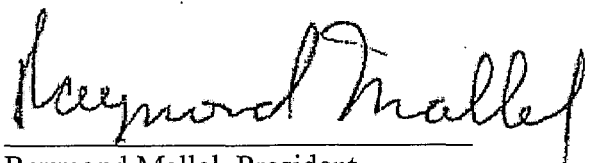
OAH No. L-2012010312

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 21, 2012.**

IT IS SO ORDERED **November 21, 2012.**



Raymond Malle, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **ADAM SAMSON RUBANENKO**
14 **5484 Katherine Avenue**
Sherman Oaks, CA 91401

15 **Registered Nurse License No. 710340**

16 Respondent.

Case No. 2011-936

OAH No. L-2012010312

17
18 **STIPULATED SETTLEMENT AND**
19 **DISCIPLINARY ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
24 Board of Registered Nursing. She brought this action solely in her official capacity and is
25 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
26 Heather Hua, Deputy Attorney General.

27 2. Adam Samson Rubanenko (Respondent) is represented in this proceeding by attorney
28 Ann Schneider, Esq., whose address is: 801 S. Figueroa Street Suite 1200,
Los Angeles, CA 90017.

3. On or about August 15, 2007, the Board of Registered Nursing issued Registered Nurse License No. 710340 to Adam Samson Rubanenko (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2011-936 and will expire on October 31, 2012, unless renewed.

JURISDICTION

4. Accusation No. 2011-936 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 24, 2011. Respondent timely filed his Notice of Defense contesting the Accusation. A Default Decision for case No. 2011-936 was filed on October 20, 2011. However, with good cause appearing, an Order setting aside the Default Decision was filed on October 21, 2011.

5. A copy of Accusation No. 2011-936 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-936. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 710340 issued to Adam Samson Rubanenko (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Respondent's license shall be fully restored.

3. **Report in Person.** Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or

1 practice as a registered nurse outside of California shall not apply toward a reduction of this
2 probation time period. Respondent's probation is tolled, if and when he resides outside of
3 California. Respondent must provide written notice to the Board within 15 days of any change of
4 residency or practice outside the state, and within 30 days prior to re-establishing residency or
5 returning to practice in this state.

6 Respondent shall provide a list of all states and territories where he has ever been licensed
7 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
8 information regarding the status of each license and any changes in such license status during the
9 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
10 license during the term of probation.

11 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
12 or cause to be submitted such written reports/declarations and verification of actions under
13 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
14 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
15 Respondent shall immediately execute all release of information forms as may be required by the
16 Board or its representatives.

17 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
18 state and territory in which he has a registered nurse license.

19 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
20 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
21 6 consecutive months or as determined by the Board.

22 For purposes of compliance with the section, "engage in the practice of registered nursing"
23 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
24 non-direct patient care position that requires licensure as a registered nurse.

25 The Board may require that advanced practice nurses engage in advanced practice nursing
26 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

27 If Respondent has not complied with this condition during the probationary term, and
28 Respondent has presented sufficient documentation of his good faith efforts to comply with this

1 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
2 extension of Respondent's probation period up to one year without further hearing in order to
3 comply with this condition. During the one year extension, all original conditions of probation
4 shall apply.

5 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
6 prior approval from the Board before commencing or continuing any employment, paid or
7 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
8 performance evaluations and other employment related reports as a registered nurse upon request
9 of the Board.

10 Respondent shall provide a copy of this Decision to his employer and immediate
11 supervisors prior to commencement of any nursing or other health care related employment.

12 In addition to the above, Respondent shall notify the Board in writing within seventy-two
13 (72) hours after he obtains any nursing or other health care related employment. Respondent
14 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
15 regardless of cause, from any nursing, or other health care related employment with a full
16 explanation of the circumstances surrounding the termination or separation.

17 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
18 Respondent's level of supervision and/or collaboration before commencing or continuing any
19 employment as a registered nurse, or education and training that includes patient care.

20 Respondent shall practice only under the direct supervision of a registered nurse in good
21 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
22 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
23 approved.

24 Respondent's level of supervision and/or collaboration may include, but is not limited to the
25 following:

26 (a) Maximum - The individual providing supervision and/or collaboration is present in
27 the patient care area or in any other work setting at all times.

28 (b) Moderate - The individual providing supervision and/or collaboration is in the patient

1 care unit or in any other work setting at least half the hours Respondent works.

2 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
3 person communication with Respondent at least twice during each shift worked.

4 (d) Home Health Care - If Respondent is approved to work in the home health care
5 setting, the individual providing supervision and/or collaboration shall have person-to-person
6 communication with Respondent as required by the Board each work day. Respondent shall
7 maintain telephone or other telecommunication contact with the individual providing supervision
8 and/or collaboration as required by the Board during each work day. The individual providing
9 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
10 patients' homes visited by Respondent with or without Respondent present.

11 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
12 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
13 or for an in-house nursing pool.

14 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
15 registered nursing supervision and other protections for home visits have been approved by the
16 Board. Respondent shall not work in any other registered nursing occupation where home visits
17 are required.

18 Respondent shall not work in any health care setting as a supervisor of registered nurses.
19 The Board may additionally restrict Respondent from supervising licensed vocational nurses
20 and/or unlicensed assistive personnel on a case-by-case basis.

21 Respondent shall not work as a faculty member in an approved school of nursing or as an
22 instructor in a Board approved continuing education program.

23 Respondent shall work only on a regularly assigned, identified and predetermined
24 worksite(s) and shall not work in a float capacity.

25 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
26 request documentation to determine whether there should be restrictions on the hours of work.

27 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
28 successfully complete a course(s) relevant to the practice of registered nursing no later than six

1 months prior to the end of his probationary term.

2 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
3 Respondent shall submit to the Board the original transcripts or certificates of completion for the
4 above required course(s). The Board shall return the original documents to Respondent after
5 photocopying them for its records.

6 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its
7 investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
8 amount of three thousand one hundred ninety-eight dollars (\$3,198.00). Respondent shall be
9 permitted to pay these costs in a payment plan approved by the Board, with payments to be
10 completed no later than three months prior to the end of the probation term.

11 If Respondent has not complied with this condition during the probationary term, and
12 Respondent has presented sufficient documentation of his good faith efforts to comply with this
13 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
14 extension of Respondent's probation period up to one year without further hearing in order to
15 comply with this condition. During the one year extension, all original conditions of probation
16 will apply.

17 12. **Violation of Probation.** If Respondent violates the conditions of his probation, the
18 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
19 and impose the stayed discipline (revocation/suspension) of Respondent's license.

20 If during the period of probation, an accusation or petition to revoke probation has been
21 filed against Respondent's license or the Attorney General's Office has been requested to prepare
22 an accusation or petition to revoke probation against Respondent's license, the probationary
23 period shall automatically be extended and shall not expire until the accusation or petition has
24 been acted upon by the Board.

25 13. **License Surrender.** During Respondent's term of probation, if he ceases practicing
26 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
27 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
28 Respondent's request and to exercise its discretion whether to grant the request, or to take any

1 other action deemed appropriate and reasonable under the circumstances, without further hearing.
2 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
3 subject to the conditions of probation.

4 Surrender of Respondent's license shall be considered a disciplinary action and shall
5 become a part of Respondent's license history with the Board. A registered nurse whose license
6 has been surrendered may petition the Board for reinstatement no sooner than the following
7 minimum periods from the effective date of the disciplinary decision:

8 (1) Two years for reinstatement of a license that was surrendered for any reason other
9 than a mental or physical illness; or

10 (2) One year for a license surrendered for a mental or physical illness.

11 14. **Physical Examination.** Within 45 days of the effective date of this Decision,
12 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
13 assistant, who is approved by the Board before the assessment is performed, submit an
14 assessment of the Respondent's physical condition and capability to perform the duties of a
15 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
16 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
17 the Board. If medically determined, a recommended treatment program will be instituted and
18 followed by the Respondent with the physician, nurse practitioner, or physician assistant
19 providing written reports to the Board on forms provided by the Board.

20 If Respondent is determined to be unable to practice safely as a registered nurse, the
21 licensed physician, nurse practitioner, or physician assistant making this determination shall
22 immediately notify the Board and Respondent by telephone, and the Board shall request that the
23 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
24 immediately cease practice and shall not resume practice until notified by the Board. During this
25 period of suspension, Respondent shall not engage in any practice for which a license issued by
26 the Board is required until the Board has notified Respondent that a medical determination
27 permits Respondent to resume practice. This period of suspension will not apply to the reduction
28 of this probationary time period.

1 If Respondent fails to have the above assessment submitted to the Board within the 45-day
2 requirement, Respondent shall immediately cease practice and shall not resume practice until
3 notified by the Board. This period of suspension will not apply to the reduction of this
4 probationary time period. The Board may waive or postpone this suspension only if significant,
5 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
6 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
7 Only one such waiver or extension may be permitted.

8 **15. Mental Health Examination.** Respondent shall, within 45 days of the effective date
9 of this Decision, have a mental health examination including psychological testing as appropriate
10 to determine his capability to perform the duties of a registered nurse, including a determination
11 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
12 examination will be performed by a psychiatrist, psychologist or other licensed mental health
13 practitioner approved by the Board. The examining mental health practitioner will submit a
14 written report of that assessment and recommendations to the Board. All costs are the
15 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
16 result of the mental health examination will be instituted and followed by Respondent.

17 If Respondent is determined to be unable to practice safely as a registered nurse, the
18 licensed mental health care practitioner making this determination shall immediately notify the
19 Board and Respondent by telephone, and the Board shall request that the Attorney General's
20 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
21 practice and may not resume practice until notified by the Board. During this period of
22 suspension, Respondent shall not engage in any practice for which a license issued by the Board
23 is required, until the Board has notified Respondent that a mental health determination permits
24 Respondent to resume practice. This period of suspension will not apply to the reduction of this
25 probationary time period.

26 If Respondent fails to have the above assessment submitted to the Board within the 45-day
27 requirement, Respondent shall immediately cease practice and shall not resume practice until
28 notified by the Board. This period of suspension will not apply to the reduction of this

1 probationary time period. The Board may waive or postpone this suspension only if significant,
2 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
3 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
4 Only one such waiver or extension may be permitted.

5 **16. Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
6 and/or mental health examination determines that the respondent is dependent upon drugs or
7 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
8 dependence in remission), that might reasonably affect the safe practice of nursing, then the
9 respondent must further comply with the following additional terms and conditions of probation:

10 **A. Participate in Treatment/Rehabilitation Program for Chemical**

11 **Dependence.** Respondent, at his expense, shall successfully complete during the
12 probationary period or shall have successfully completed prior to commencement
13 of probation a Board-approved treatment/rehabilitation program of at least six
14 months duration. As required, reports shall be submitted by the program on forms
15 provided by the Board. If Respondent has not completed a Board-approved
16 treatment/rehabilitation program prior to commencement of probation,
17 Respondent, within 45 days from the effective date of the decision, shall be
18 enrolled in a program. If a program is not successfully completed within the first
19 nine months of probation, the Board shall consider Respondent in violation of
20 probation.

21 Based on Board recommendation, each week Respondent shall be required
22 to attend at least one, but no more than five 12-step recovery meetings or
23 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
24 support group as approved and directed by the Board. If a nurse support group is
25 not available, an additional 12-step meeting or equivalent shall be added.
26 Respondent shall submit dated and signed documentation confirming such
27 attendance to the Board during the entire period of probation. Respondent shall
28 continue with the recovery plan recommended by the treatment/rehabilitation

1 program or a licensed mental health examiner and/or other ongoing recovery
2 groups.

3 **B. Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
4 shall completely abstain from the possession, injection or consumption by any
5 route of all controlled substances and all psychotropic (mood altering) drugs,
6 including alcohol, except when the same are ordered by a health care professional
7 legally authorized to do so as part of documented medical treatment. Respondent
8 shall have sent to the Board, in writing and within fourteen (14) days, by the
9 prescribing health professional, a report identifying the medication, dosage, the
10 date the medication was prescribed, the Respondent's prognosis, the date the
11 medication will no longer be required, and the effect on the recovery plan, if
12 appropriate.

13 Respondent shall identify for the Board a single physician, nurse
14 practitioner or physician assistant who shall be aware of Respondent's history of
15 substance abuse and will coordinate and monitor any prescriptions for Respondent
16 for dangerous drugs, controlled substances or mood-altering drugs. The
17 coordinating physician, nurse practitioner, or physician assistant shall report to the
18 Board on a quarterly basis Respondent's compliance with this condition. If any
19 substances considered addictive have been prescribed, the report shall identify a
20 program for the time limited use of any such substances.

21 The Board may require the single coordinating physician, nurse
22 practitioner, or physician assistant to be a specialist in addictive medicine, or to
23 consult with a specialist in addictive medicine.

24 **C. Submit to Tests and Samples.** Respondent, at his expense, shall
25 participate in a random, biological fluid testing or a drug screening program which
26 the Board approves. The length of time and frequency will be subject to approval
27 by the Board. Respondent is responsible for keeping the Board informed of
28 Respondent's current telephone number at all times. Respondent shall also ensure

1 that messages may be left at the telephone number when she is not available and
2 ensure that reports are submitted directly by the testing agency to the Board, as
3 directed. Any confirmed positive finding shall be reported immediately to the
4 Board by the program and Respondent shall be considered in violation of
5 probation.

6 In addition, Respondent, at any time during the period of probation, shall
7 fully cooperate with the Board or any of its representatives, and shall, when
8 requested, submit to such tests and samples as the Board or its representatives may
9 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
10 controlled substances.

11 If Respondent has a positive drug screen for any substance not legally
12 authorized and not reported to the coordinating physician, nurse practitioner, or
13 physician assistant, and the Board files a petition to revoke probation or an
14 accusation, the Board may suspend Respondent from practice pending the final
15 decision on the petition to revoke probation or the accusation. This period of
16 suspension will not apply to the reduction of this probationary time period.

17 If Respondent fails to participate in a random, biological fluid testing or
18 drug screening program within the specified time frame, Respondent shall
19 immediately cease practice and shall not resume practice until notified by the
20 Board. After taking into account documented evidence of mitigation, if the Board
21 files a petition to revoke probation or an accusation, the Board may suspend
22 Respondent from practice pending the final decision on the petition to revoke
23 probation or the accusation. This period of suspension will not apply to the
24 reduction of this probationary time period.

25 **D. Therapy or Counseling Program.** Respondent, at his expense, shall
26 participate in an on-going counseling program until such time as the Board
27 releases her from this requirement and only upon the recommendation of the
28 counselor. Written progress reports from the counselor will be required at various

1 intervals.

2 ACCEPTANCE

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Ann Schneider, Esq. I understand the stipulation and the effect it
5 will have on my Registered Nurse License. I enter into this Stipulated Settlement and
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Board of Registered Nursing.

8
9
10
11 DATED: _____

Signature page attached

12 ADAM SAMSON RUBANENKO
13 Respondent

14 I have read and fully discussed with Respondent Adam Samson Rubanenko the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

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19 DATED: _____

20 ANN SCHNEIDER, Esq.
21 Attorney for Respondent
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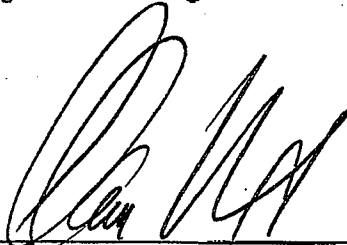
1 intervals.

2 ACCEPTANCE

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4 discussed it with my attorney, Ann Schneider, Esq. I understand the stipulation and the effect it
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6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Board of Registered Nursing.

8
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11 DATED:

7/16/12


ADAM SAMSON RUBANENKO
Respondent

12
13
14 I have read and fully discussed with Respondent Adam Samson Rubanenko the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17
18
19 DATED:

7/13/12


ANN SCHNEIDER, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

July 16, 2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011-936

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2 MARC D. GREENBAUM
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3 KIMBERLEY J. BAKER-GUILLEMET
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Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-936**

13 **ADAM SAMSON RUBANENKO**
4652 Fulton Ave. #4
14 Sherman Oaks, CA 91423

ACCUSATION

15 Registered Nurse License No. 710340

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs (Board).

22 2. On or about August 15, 2007, the Board issued Registered Nurse License No. 710340
23 to Adam Samson Rubanenko (Respondent). The Registered Nurse License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on October 31, 2012,
25 unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board, Registrar or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 of the Code provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 2750 of the Code provides that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

7. Section 2761 of the Code provides:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct...

....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

"(e) Making or giving any false statement or information in connection with the application for issuance of a certificate or license.

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof. . .

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8. Section 2762 of the Code provides:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444, provides:

“A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.”

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1 submitted to a Blood Alcohol Test. The test demonstrated that Respondent had a blood alcohol
2 level of 0.12% while operating a motor vehicle.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Alcohol Related Conviction)

5 12. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
6 2762, subdivision (c), on the grounds of unprofessional conduct, in that, on or about August 12,
7 2010, Respondent sustained a conviction involving alcoholic beverages. Complainant refers to
8 and by this reference incorporates the allegations set forth above in paragraph 11, subparagraphs a
9 and b, inclusive, as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Dangerous Use of Alcohol)

12 13. Respondent is subject to disciplinary action under sections 2761, subdivision (a), and
13 2762, subdivision (b), on the grounds of unprofessional conduct, in that, on or about April 30,
14 2010, Respondent used alcoholic beverages, to an extent or in a manner dangerous or injurious to
15 himself or others when he drove a vehicle while intoxicated. Complainant refers to and by this
16 reference incorporates the allegations set forth above in paragraphs 11 and 12, inclusive, as
17 though set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct)

20 14. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and
21 (d), in that, Respondent committed acts of unprofessional conduct, and/or acts violating
22 provisions of the Nursing Practice Act. Complainant refers to and by this reference incorporates
23 the allegations set forth above in paragraphs 11-13, inclusive, as though set forth fully.

24 **DISCIPLINE CONSIDERATIONS**

25 15. To determine the degree of discipline, Complainant alleges as follows:

26 a. On or about May 1, 2003, after pleading nolo contendere Respondent was convicted
27 of two misdemeanor counts for violating Penal Code sections 12025(a)(1) [carrying concealed
28 weapon in vehicle], and section 653.22 [loitering in a public place with intent to commit

1 prostitution], in the prior criminal proceeding entitled *The People of the State of California v.*
2 *Adam Rubanenko* (Super. Ct. Los Angeles County, 2003, No. 3HL00778). The Court placed
3 Respondent on 24 months of summary probation and ordered him to complete 10 days of
4 community service, to obtain HIV blood testing, and to complete an AIDS education class. On or
5 about March 11, 2005, the Court dismissed the conviction for violating Penal Code section
6 12025(a)(1) [carrying concealed weapon in vehicle], pursuant to Penal Code section 1203.4.

7 i. The circumstances underlying the conviction are that on or about February 21,
8 2003, Respondent solicited prostitution services from an undercover police officer. During an
9 inventory search of Respondent's vehicle, officers recovered a firearm from his vehicle. The
10 record of the criminal proceeding is incorporated as though set forth fully.

11 b. On or about April 17, 2007, when Respondent initially applied for his registered
12 nursing license, he failed to disclose that he had suffered a criminal conviction in the past in
13 violation of Code section 2761, subdivision (e). Specifically, Respondent marked "no" in
14 response to the following question: "Have you ever been convicted of **any** offense other than
15 minor traffic violations?" He then signed the following statement: "I certify, under penalty of
16 perjury under the laws of the State of California, that all information provided in connection with
17 this application for licensure is true, correct and complete. Providing false information or omitting
18 required information is grounds for denial of licensure or license revocation in California."

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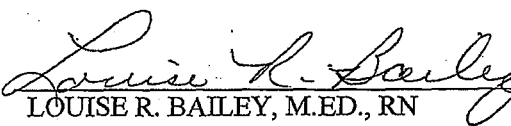
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 710340, issued to Adam Samson Rubanenko;
2. Ordering Adam Samson Rubanenko to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/24/2011


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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